IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3354 OF 2007.
WITH
WRIT PETITION NO. 3355 OF 2007.

M/s.Tejas Plastics. ... Petitioner
(In both petitions)

Versus.

The Krishna Valley Cooperative Bank Ltd. & others. ... Respondents.
(In both petitions)

Shri Amit Sale for the Petitioner in both petitions.

Shri Rupesh Bobde i/by Shri Umesh Mankapure for the Respondent No.1 in both petitions.

CORAM : ABHAY S.OKA, J.

DATED : 6th July, 2007.

P.C.:

1. Heard the learned Advocate appearing for the Petitioner and the learned Advocate for the 1st Respondent. On an application made by the 1st Respondent, the Deputy Registrar of Cooperative Societies issued a recovery certificate against the Petitioner and others under section 101 of the Maharashtra Cooperative Societies Act, 1960. A Revision Application was preferred by the Petitioner before the Divisional Joint Registrar of Cooperative Societies for challenging the order granting recovery certificate. The Divisional Joint Registrar rejected the Revision Application on account of failure of the Petitioner to comply with the requirement of sub-section (2A) of section 154 of the said Act of 1960.

2. The learned Counsel appearing for the Petitioner invited my attention to the Application made by the Petitioner before the Deputy Registrar of Cooperative Societies during the pendency of the Application under section 101 of the said Act of 1960. In the said Application it was pointed out that the Deputy Registrar could not have heard the Application as he himself was the administrator of the 1st Respondent. It is submitted that the said Application was never decided and he proceeded to pass the order granting recovery certificate under section 101 of the said Act of 1960. He invited my attention to an order passed by the Division Bench of this Court in Writ Petition No.1965 of 2005. He submitted that considering the fact that the Deputy Registrar could not have heard the Application made by the 1st Respondent, it was a fit where the Divisional Joint Registrar ought to have entertained the Revision Application without insisting on the deposit of amount prescribed by sub-section 2A of section 154 of the said Act of 1960.

3. I have considered the submissions. The requirement of sub-section (2A) of section 154 of the said Act of 1960 has been held to be mandatory. The submissions which are made by the learned Counsel for the Petitioner relate to the merits of the Revision

Application and the said submissions have no relevance so far as the compliance with the mandatory requirement of law of comulsory deposit is concerned. Therefore, the learned Divisional Joint Registrar was right in rejecting the Revision Application on the ground of non-compliance with the statutory requirement.

4. At this stage, the learned Counsel appearing for the Petitioner states that the Petitioner has already deposited a total sum of Rs.4,35,000/-with the 1st Respondent on the basis of the recovery certificates which are the subject matter of these two writ petitions. He prays for grant of a longer time to comply with the requirement of the statute. The said prayer is opposed by the learned Counsel for the 1st Respondent.

5. Considering the peculiar facts of the case, time deserves to be granted to the Petitioner to deposit the requisite amount as requiered by sub-section 2A of section 154 of the said Act of 1960 till 9th November 2007. Hence the following order is passed:

(i) Writ petitions are rejected.

(ii) If the Petitioner complies with the requirement of sub-section (2A) of section 154 of the said

Act of 1960 on or before 9th November 2007, he will file an application containing all the particulars of deposit before the Divisional Joint Registrar and will satisfy the Divisional Joint Registrar as regards compliance with the requirements of sub-section (2A) of section 154 of the said Act of 1960. It is obvious that the amount, if any, paid by the Petitioner till today on the basis of the recovery certificates will be taken into consideration by the Divisional Joint Registrar. If the Divisional Joint Registrar is satisfied that the Petitioner has complied with the requirement of law on or before 9th November 2007, the Divisional Joint Registrar will register the Revision Applications preferred by the Petitioner and will decide the same in accordance with law.

(iii) All contentions of the parties on merits of the Revision Applications are kept open.

(iv) No coercive steps shall be taken by Respondent No.1 against the Petitioner on the basis of the Recovery Certificates till 10th November 2007, subject to condition that the Petitioner will not create any third party interests in respect

of its immovable properties.

Judge.